

REMARKS

Claims 1-27 are currently pending in the application. No claims have been amended, added, or canceled. Applicant respectfully requests reconsideration of the application in view of the following remarks.

Claims 1, 4, 7-10, 13, 16-19, 22, and 25-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,498,785 to Derryberry et al. ("Derryberry"). Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 1, namely, transmitting at least one second access channel probe for a second message from a mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon a first transmission power level.

Derryberry appears to relate to a method and an apparatus for power control on a first channel that is shared by multiple mobile stations transmitting to base stations in a telecommunication system. An initial mobile station transmission power level is set on the first channel that is shared in a random access mode. The transmission power level may be determined based on a desired performance level of the first channel. The method may be applied on a channel that carries a transmission in one or more bursts, with each burst including the same or a varying number of frames of varying sizes. The method utilizes a second channel that is shared by multiple mobile stations for transmitting power control signaling from the base stations to the mobile stations.

In contrast to claim 1, there is no teaching or suggestion by Derryberry of transmitting at least one second access channel probe for a second message from a mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon a first transmission power level. In Derryberry, a power value associated with a parameter measured on a measurement channel is determined. The power value indicates a ratio of an energy per bit, (E_b) to an effective noise power spectral density (N_f). The power value is compared to a

predetermined threshold power value in a base station. The predetermined threshold power value that is compared to the power value is determined based on a probability of frame error rate that is associated with a desired probability of transmission.

In contrast to Derryberry, in claim 1, a transmission power level of an initial access channel probe of the at least one second access channel probe for a second message is based upon a first transmission power level. Applicant respectfully submits that claim 1 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 1 as anticipated by Derryberry is respectfully requested.)

Dependent claims 4 and 7-9 depend from and further restrict independent claim 1 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 1, dependent claims 4 and 7-9 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 4 and 7-9 is respectfully requested.

Independent claim 10 relates to an apparatus for improving open loop power control in a spread spectrum telecommunications systems. Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 10, namely, at least one processor for determining a second transmission power level of an initial access channel probe of at least one second access channel probe for a second message to be transmitted from a mobile station to a base station, the second transmission power level of the initial access channel probe of the at least one second access channel probe for the second message being determined based upon a first transmission power level.

In contrast to claim 10, there is no teaching or suggestion by Derryberry of the at least one processor for determining a second transmission power level of an initial access channel probe of at least one second access channel probe for a second message being determined based upon a first transmission power level. In Derryberry, a power value associated with a parameter measured on a measurement channel is determined. The power value indicates a ratio of an energy per bit (E_b) to an effective noise power spectral density (N_f). The power value is compared to a predetermined threshold power value in a base station. The

predetermined threshold power value that is compared to the power value is determined based on a probability of frame error rate that is associated with a desired probability of transmission.

In contrast to Derryberry, in claim 10, a second transmission power level of an initial access channel probe of the at least one second access channel probe for a second message is determined based upon a first transmission power level. Applicant respectfully submits that claim 10 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 10 as anticipated by Derryberry is respectfully requested.

Dependent claims 13 and 16-18 depend from and further restrict independent claim 10 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 10, dependent claims 13 and 16-18 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 12 and 16-18 is respectfully requested.

Independent claim 19 relates to an article of manufacture for improving open loop power control in a spread spectrum telecommunications systems. Applicant respectfully submits that Derryberry fails to teach or suggest at least one of the distinguishing features of independent claim 19, namely, storing a first transmission power level at a mobile station and transmitting at least one second access channel probe for a second message from the mobile station to a base station, a transmission power level of an initial access channel probe of the at least one second access channel probe for the second message being based upon the first transmission power level.

In Derryberry, a power value associated with a parameter measured on a measurement channel is determined. The power value indicates a ratio of an energy per bit (E_b) to an effective noise power spectral density (N_f). The power value is compared to a predetermined threshold power value in a base station. The predetermined threshold power value that is compared to the power value is determined based on a probability of frame error rate that is associated with a desired probability of transmission.

In contrast to Derryberry, in claim 19, at least one second access channel probe for the second message is based upon the first transmission power level. Applicant respectfully

submits that claim 19 distinguishes over Derryberry and is in condition for allowance. Withdrawal of the rejection of claim 19 as anticipated by Derryberry is respectfully requested.

Dependent claims 22 and 25-27 depend from and further restrict independent claim 19 in a patentable sense. Applicant respectfully submits that, for at least the reasons set forth above with respect to the rejection of independent claim 19, dependent claims 22 and 25-27 distinguish over Derryberry and are in condition for allowance. Withdrawal of the rejection of dependent claims 22 and 25-27 is respectfully requested.

Claims 2-3, 5-6, 11-12, 14-15, 20-21, and 23-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Derryberry in view of U.S. Patent No. 5,265,119 to Gilhousen et al. ("Gilhousen"). Claims 2-3 and 5-6 depend from and further restrict independent claim 1 and therefore also distinguish over Derryberry. In rejecting claim 2-3 and 5-6, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 1. Applicant respectfully submits that dependent claims 2-3 and 5-6 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

Claims 11-12 and 14-15 depend from and further restrict independent claim 10 and therefore also distinguish over Derryberry. In rejecting claim 11-12 and 14-15, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 10. Applicant respectfully submits that dependent claims 11-12 and 14-15 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

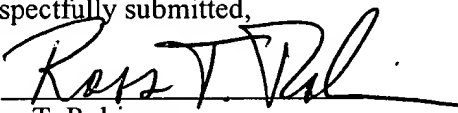
Claims 20-21 and 23-24 depend from and further restrict independent claim 19 and therefore also distinguish over Derryberry. In rejecting claim 20-21 and 23-24, the Examiner has further applied Gilhousen. Applicant respectfully submits that Gilhousen fails to cure the deficiencies of Derryberry noted above with respect to independent claim 10. Applicant respectfully submits that dependent claims 20-21 and 23-24 distinguish over the cited combination of Derryberry and Gilhousen and respectfully requests that the rejection thereof be withdrawn.

In view of the above, each of the presently-pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Dated: July 9, 2004

Respectfully submitted,

By



Ross T. Robinson

Registration No.: 47,031

JENKENS & GILCHRIST, A PROFESSIONAL
CORPORATION

1445 Ross Avenue, Suite 3200

Dallas, Texas 75202

(214) 855-4500

Attorneys For Applicant